

Serial No. 10/040,566  
Docket No. LEAP:109US  
Request for Reconsideration dated: October 9, 2003  
Reply to Office Action of July 9, 2003

### Remarks

#### The Rejection of Claim 1, 4 and 7-9 under 35 U.S.C. 102(e)

The Examiner rejected Claims 1, 4 and 7-9 under 35 U.S.C. 102(e) as being unpatentable by Ooki *et al.* (USPN 6,583,928). More specifically, the Examiner indicated that Ooki teaches all of the features of independent Claims 1, 7 and 9 such as a microscope for automatically turning off a source of illumination (B1) in a microscope comprising: a switch (15- should it be B15?) operatively arranged to control the illumination source (B1); the control (B12) for sensing inactivity of the switch and for turning off the illumination source (B12) after a predetermined time period of inactivity. See figures 1- 7. Col.1 to col.16, lines 1-49. While the lack of particularity in this rejection made it difficult for Applicants to determine the exact basis of these rejections, Applicants believe this rejection relates to the third embodiment (Figs. 5, Col. 10-11). Applicants respectfully traverse the rejection by noting that several elements of independent Claims 1, 7 and 9 are not taught by any of the embodiments disclosed in Ooki *et al.*

Claims 1, 7 and 9 specifically recites the elements of “means for sensing inactivity of a switch and for turning off an illumination source after a predetermined time period of inactivity.” Ooki does not disclose these elements. Therefore, Ooki does not anticipate Claim 1, 7 and 9 or any of its trailing dependent claims, under 35 U.S.C. §102.

Ooki *et al.* describes a microscope capable of reducing damage such as deformation, discoloration or the like to which a sample placed on a stage is subjected. The system described for doing so in Ooki Col. 10, lines 53 to Col. 11, lines 31 is quite different from the present invention.

In the microscope of the third embodiment, a switch B15 is installed. By switching the switch B15, **an observer can perform switching** between the continuous mode and an intermittent mode...

On the other hand, **a position of the stage B5 is detected by a displacement sensor B11, and an output signal therefrom is transferred to a control circuit B12. The control circuit B12 performs identification as to a**

**movement/stoppage of the stage B5 based on the output signal from the displacement sensor B11.** In other words, a movement of the stage B5 is recognized when there is fluctuation in an output value. When there is no fluctuation in an output value, a stoppage of the stage B5 is recognized.

If fluctuation occurs in the output signal from the displacement sensor B11, in other words if a movement of the stage B5 is determined, then the intermittent mode is forcibly canceled to change to the continues mode. Then, the output of the light source B1 is immediately switched ON...

**In the third embodiment, the intermittent mode is forcibly canceled by detecting the movement of the stage B5. But without detecting the movement of the stage B5, cancellation of the intermittent mode may be performed only by the operation of the switch B15 carried out by the observer.** (edited and emphasis added).

Thus, the Ooki system requires either **the observer** to manually turn off intermittent mode or the intermittent mode is forcibly cancelled by detecting the movement of the **stage**.

Furthermore, Ooki discloses that once the switch is operated by a user, the microscope switches from the continuous mode to the intermittent mode. The continuous mode is used for displaying a video signal as a motion picture. In the intermittent mode, the video signal is displayed as a still picture. This intermittent mode is used for samples which essentially do NOT change over time. The microscope system switches back to continuous mode **only if** changes are detected in the sample on the stage as indicated in Col. 12, lines 23-30.

**If fluctuation occurs in an output signal from a displacement sensor B11, in other words if a movement of a stage B5 is determined, the intermittent mode is forcibly canceled** to change to the continuous mode, and the shutter B35 immediately moves out of the optical path. At the same time, the signal processing system B31 starts continuous capturing of the image of the sample A, and the motion picture is displayed again on the monitor B10. (emphasis added)

Similarly, all of the other embodiments relate to switching of a video signal which occurs **only if** image changes are detected. None of the embodiments in the Ooki reference relates to sensing the time period of inactivity of a **switch** that controls a source of illumination. Also, the turning off of an illumination source in Ooki, does not, in any way, correlate with the time period of inactivity of a source of illumination. Thus, Ooki does not teach a means for sensing inactivity of

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a switch and for turning off said illumination source after a predetermined time period of inactivity.

Since Claims 4 and 8 depend from independent Claims 1 and 7, respectively, they too are not anticipated by Ooki *et al.* for the reasons set forth above. So, Ooki *et al.* deals with an **observer manually** turning a switch (not a power supply) or a control circuit turning on a light source by **detecting movement of the stage**. Again, this has nothing to do with sensing inactivity of a switch and for turning off said illumination source after a predetermined time period of inactivity. As such Ooki *et al.* regulates a light source based on stage movement while the present invention regulates the light source based on a predetermined time period of inactivity of a switch. Thus, Applicants respectfully request that the rejections of these claims be withdrawn.

#### The Rejection of Claim 2-3, 5-6 and 10-11 U.S.C. 103(a)

The Examiner rejected Claims 2-3, 5-6 and 10-11 under 35 U.S.C. §103(a) as being unpatentable in view of the teachings of Ooki *et al.* Applicants respectfully traverse the rejections.

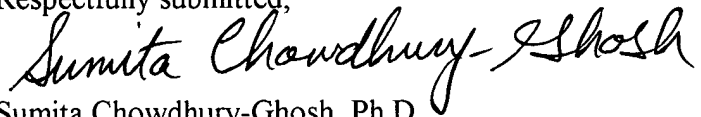
Applicants respectfully submit that Claims 2-3, 5-6 and 10-11 all depend from patentable, non-obvious base claims. Hence, by virtue of their dependency therefrom (Claims 1 and 9), Claims 2-3, 5-6 and 10-11 are also non-obvious. Again, since these rejections relate to dependent claims, the specific elements of Claims 1 and 9 provide structural limitations which have important functional benefits over the prior art. Furthermore, Ooki *et al.* teaches away from the present invention by requiring manual switching or switching based on stage movement. With regard to the inventive step objections, a person skilled in the art would not consider Ooki *et al.* as relevant prior art, because the underlying problems to be overcome are different between Ooki *et al.* and the present invention. Reconsideration of the rejection is respectfully requested.

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**Conclusion**

The foregoing is submitted as a full and complete Response to Office Action. Applicants respectfully submit that the present application is now in condition for Issue, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned agent of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,



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